

## Agricultural Marketing Service, USDA

## § 956.44

(d) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect, irrespective of whether particular provisions of this part are suspended or become inoperative.

(e) To provide funds for the administration of the provisions of this part during the initial fiscal period or the first part of a fiscal period when neither sufficient operating reserve funds nor sufficient revenue from assessments on the current season's shipments are available, the committee may accept payment of assessments in advance or may borrow money for such purposes.

(f) The committee may impose a late payment charge or an interest charge, or both, on any handler who fails to pay any assessment in a timely manner. Such time and the rates shall be recommended by the committee and approved by the Secretary.

### § 956.43 Accounting.

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternate members, employees, agents, and all other such persons associated with the committee to account for all receipts, disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member, alternate member, employee, or agent of the committee, such person shall account for all receipts, disbursements, funds, property, and records pertaining to the committee's activities for which such person was responsible, deliver all property and funds in such person's possession to the committee, and execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such person pursuant to this part.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other

committee property during periods of suspension of this part, or during any period or periods when regulations are not in effect and, upon determining such action is appropriate, the Secretary may direct that such person or persons shall act as trustee or trustees for the committee.

### § 956.44 Excess funds.

If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(a) The committee, with approval of the Secretary, may establish an operating reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established, except funds in the reserve shall not exceed the equivalent of approximately two fiscal period's budgeted expenses. Such reserve funds may be used:

(1) To defray any expenses authorized under this part;

(2) To defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses;

(3) To cover deficits incurred during any fiscal period when assessment income is less than expenses;

(4) To defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative; and

(5) To cover necessary expenses of liquidation in the event of termination of this part.

(b) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate except that to the extent practicable, such funds shall be returned pro rata to the persons from whom such funds were collected.

(c) If such excess is not retained in a reserve as provided in paragraph (a) of this section, each handler entitled to a proportionate refund of the excess assessments collected shall be credited at the end of a fiscal period with such refund against the operations of the following fiscal period unless such handler demands payment thereof, in which event such proportionate refund shall be paid as soon as practicable.